

UNITED STATES DISTRICT COURT

for the

Eastern District of California

FILED

May 13, 2024

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States of America

v.

Wendell MOTON, Donnie HICKS and
McCael MARSHALL

Case No. **1:24-mj-00057-SAB**

SEALED

Defendant(s)

CRIMINAL COMPLAINT BY RELIABLE ELECTRONIC OR TELEPHONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 27 and April 21, 2024 in the county of Fresno in the
Eastern District of District, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 933(a)(3)

Conspiracy to Commit Firearms Trafficking on April 21, 2024 (all defendants)
Max. Pen.: 15 years prison, \$250,000 fine, 3 years TSR, \$100 sp. asses.

18 U.S.C. 922(g)(1)

Possession of a Firearm by a Felon on April 21, 2024 (all defendants)
Max. Pen.: 15 years prison, \$250,000 fine, 3 years TSR, \$100 sp. asses.

18 U.S.C. 922(g)(1)

Possession of a Firearm by a Felon on March 27, 2024 (Moton only)
Max. Pen.: 15 years prison, \$250,000 fine, 3 years TSR, \$100 sp. asses.

This criminal complaint is based on these facts:

See attached affidavit of SA Jeremy Hudson

☒ Continued on the attached sheet.



Complainant's signature

Jeremy Hudson, HSI S.A.

Printed name and title

Attested to by the applicant in accordance
with the requirements of Fed. R. Crim. P.
4.1 by telephone

Date: **May 10, 2024**



Judge's signature

City and state: Fresno, CA

Hon. Stanley A. Boone, U.S. Magistrate Judge

Printed name and title

PHILLIP A. TALBERT
United States Attorney
ROBERT VENEMAN-HUGHES
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WENDELL MOTON, DONNIE HICKS,
AND MCCAEL MARSHALL

Defendants.

CASE NO.

AFFIDAVIT OF
SPECIAL AGENT JEREMY HUDSON

UNDER SEAL

I, JEREMY C. HUDSON, being duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. This Affidavit is in support of an arrest warrant for Wendell MOTON (hereinafter referred to as MOTON), Donnie HICKS (hereinafter referred to as HICKS) and McCael MARSHALL (hereinafter referred to as MARSHALL) for violation of 18 U.S.C. § 933(a)(3), Conspiracy to Commit Firearms Trafficking, and 18 U.S.C. § 922(g)(1), Felon in Possession of A Firearm.

2. The information contained in this Affidavit is based upon my personal observations and training and, where noted, information related to me by other law enforcement officers and/or agents.

3. As stated further in this Affidavit, law enforcement officers have gathered evidence to support probable cause that MOTON, HICKS and MARSHALL unlawfully trafficked firearms, unlawfully transferred NFA weapons, and dealt firearms without a license.

4. I am a Special Agent with Homeland Security Investigation, the Office of the Resident Agent in Charge, Fresno, California (HSI Fresno). I entered duty with HSI Fresno in September 2019

1 and successfully completed the Criminal Investigators Training Program and HSI Special Agent
2 Training on August 28, 2020, completing twenty-nine weeks of training at the Federal Law Enforcement
3 Training Center-Glynco. I am currently assigned to the Transnational Gangs and Human Trafficking
4 group where the focus is on criminal street gangs, illegal firearms, firearms possession, controlled
5 substance violations, human trafficking, investigations of subjects and/or criminal organizations
6 involved in federal offenses related to the purchase, receipt and/or trafficking of firearms, ammunition,
7 firearms parts and accessories and several other problematic areas. I have participated in over 20
8 investigations involving criminal street gangs, illegal firearms possession and sales, and drug trafficking.
9 Several of these investigations involved debriefing confidential informants and individuals who were
10 gang members and/or involved in illegal firearms possession or trafficking and drug trafficking. Several
11 of these investigations also involved use of court authorized wiretaps. I participated in monitoring
12 intercepted communications. Through my training and experience, I became familiar with habits and
13 practices of individuals engaged in illegal firearms possession and transfer and drug trafficking, and the
14 lingo those individuals often use, based on my training and experience, I know that individuals engaged
15 in illegal firearms possession and transfer and drug trafficking commonly use code words to refer to
16 contraband and proceeds from its sale in an effort to avoid detection by law enforcement.

17 5. Prior to my employment as a Special Agent, I was a Deportation Officer (DO) with the
18 Immigration and Customs Enforcement (ICE), United States Department of Homeland Security, and
19 was employed from April of 2017 until September 2019. During that time, I was assigned to HSI Fresno
20 as a Task Force Officer (TFO). Prior to employment as a DO, I was employed with the United States
21 Border Patrol (USBP) as a Border Patrol Agent. I entered on duty with USBP in February of 2009. I
22 completed twenty-two weeks of training at the Federal Law Enforcement Training Center (FLETC) in
23 Artesia, New Mexico. The FLETC training consisted of Immigration and Naturalization law, Title 18 of
24 the United State code, Title 21 of the United States code, and cross-training in Title 19 of the United
25 States code. While employed with the USBP, your affiant was assigned to the Chula Vista Intelligence
26 Division (CVID), Smuggling Interdiction Group (SIG) and Sector Intelligence. CVID and SIG were
27 tasked with investigating, arresting, and prosecuting individuals involved in human, weapons and
28

1 narcotics smuggling. CVID and SIG Agents also investigated maritime and bulk cash smuggling
2 organizations that utilize, via land or sea, the Southern and Central Districts of California as an
3 operational corridor. CVID and SIG were primarily tasked with investigating assaults on federal
4 officers, theft and damage of sensitive government equipment, escapes from federal custody, and an
5 assortment of other state and federal offenses to include firearms, such as firearms trafficking, dealing
6 firearms without a license, and illegal aliens in possession of firearms.

7 6. Prior to your affiant's employment with USBP, your affiant graduated from California
8 State University – Fresno with a Bachelor of Science degree in Criminology with a Law Enforcement
9 Emphasis. As part of the criminology program, your affiant served as a student intern with the
10 Department of Justice Bureau of Narcotics Enforcement.

11 **SUMMARY**

12 7. In March 2024, HSI agents along with detectives from the Fresno County Multi Agency
13 Gang Enforcement Consortium began a firearm trafficking investigation into MOTON, HICKS and
14 MARSHALL after call intercepts regarding the trafficking of firearms. MOTON, HICKS and
15 MARSHALL are all prior felons who are members of an allied network of criminal street gangs in
16 Fresno County, the MUG Alliance.

17 8. MOTON and HICKS, both of whom were intercepted on a state wiretap during the
18 investigation, were involved in multiple conversations discussing firearms trafficking from the start of
19 the investigation up until April 21, 2024.

20 9. On March 27, 2024, MOTON fled from an attempted traffic stop. He was seen exiting the
21 vehicle holding a yellow bag, and then a yellow bag containing a firearm was found discarded along his
22 path of travel. Subsequent intercepted phone calls confirmed that the firearm belonged to MOTON.

23 10. On April 21, 2024, MOTON, HICKS and MARSHALL all agreed to sell a fully
24 automatic handgun to an undercover officer. MOTON brokered the transaction via Facebook before
25 handing the undercover buyer off to HICKS, who finalized the transaction in a recorded phone call.
26 MOTON sent photos of the firearm were sent to the undercover buyer where MARSHALL was holding
27 the firearm in his apartment. MARSHALL also arranged transportation via his girlfriend to the buy.
28

1 Investigators conducted a traffic stop on the vehicle in which HICKS and MARSHALL were located on
2 their way to the buy. Investigators found HICKS in possession of the firearm.

3 11. HICKS, MOTON and MARSHALL did not provide or indicate that they would provide
4 or complete the paperwork required by federal law to transfer a firearm or machinegun. None of the
5 three possess a federal firearms license and the transaction did not comply with the requirements of the
6 National Firearms Act. Possession of that firearm was a felony under both state and federal law, and the
7 means and manner of the sale as well as MOTON, HICKS, and MARSHALL's prior felony convictions
8 for similar offenses give them reasonable cause to believe its possession by the recipient was a felony.

9 12. As documented fully in this affidavit, I believe MOTON, HICKS and MARSHALL to be
10 in violation of 18 U.S.C. § 933, Firearms Trafficking, and 18 U.S.C. 922(g)(1), being a felon in
11 possession of a firearm.

12 **PROBABLE CAUSE**

13
14 13. In January 2024, investigators assigned to the Multi Agency Gang Enforcement
15 Consortium (MAGEC) responded to several shooting across Fresno County. Investigators determined
16 these acts of violence have involved several gang members associated to the MUG Alliance. MUG
17 Alliance is comprised of several criminal street gangs in include Modoc, U-Boys, Garrett Street, Dog
18 Pound, and Northside Pleasant Street.

19 **Identification of Wendell MOTON**

20 14. Investigators identified Wendell MOTON, a Modoc¹ gang member who is prohibited
21 from owning or possessing firearms when he was encountered during a shooting investigation in January
22 2024. MOTON was identified through his Facebook account under the username, "Wendell Moton".
23 The profile photograph for MOTON matched his most recent arrest photograph and was positively
24 identified by investigators. MOTON's criminal history shows he is prohibited from owning or

25
26 ¹ MOTON was identified by a reliable source as MODOC gang member and frequently discusses
27 gang business on the wiretap described below. He has been previously validated as a Modoc gang
28 member by MAGEC based on prior contacts, crimes, and admissions. MOTON has multiple convictions
for firearm offenses including a federal firearm conviction for felon in possession of a firearm. MOTON
is on federal supervised release for 18 USC § 922(g)(1), felon in possession of a firearm/ammo.

1 possessing firearms and is on federal supervised release for a firearms offense.

2 **Calls and Messages from Moton Describing Firearms Trafficking**

3 15. On March 18, 2024, the Honorable Michael Idiart, Fresno Superior Court Judge issued
4 an order authorizing interception of wire and electronic communications of several devices. One of the
5 covered targets in the court order was Wendell MOTON's telephone number (559) 944-2346 and
6 MOTON's Facebook account USERNAME: Wendell MOTON. Investigators identified MOTON as the
7 user of the phone through subscriber information, which shows the subscriber as Wendell MOTON,
8 calls to that number and surveillance in conjunction with a call to the number. On February 14, 2024,
9 investigators placed a call to (559) 944-2346 while conducting surveillance of MOTON. Investigators
10 saw MOTON answering the phone and speaking with undercover officers simultaneous with the call
11 their call to (559) 944-2346.

12 16. On March 22, 2024, investigators listened to a call that was intercepted over (559) 944-
13 2346, wherein MOTON called an unidentified male (UM) regarding selling a firearm. MOTON told the
14 UM "Where you at?! I got the clip nigga." Based on my training and experience and knowledge of this
15 investigation, I believe "clip" is a code word for a firearms magazine. The UM asked MOTON "What is
16 it?" MOTON answered, "It's a nine millimeter 17 r...r-d." MOTON followed this with "the one you told
17 (unintelligible) I need to bring". The UM responds "aight" to which a subject present with MOTON can
18 be heard yelling "If he don't come I'm bout to take it with me." MOTON reiterates to the UM what will
19 happen to the firearm if UM does not show. A subject present with MOTON then gets on the telephone
20 and discusses giving the firearm to "Cuddy 'B'", to which the UM agrees that would be the best choice
21 by saying "give it to 'B'". The subject then makes a joke that "this is 'B'". The subject makes a remark to
22 the UM about having a "forty" and "you don't know what to do with that." The subject returns the
23 telephone to MOTON who finalizes the agreement with the UM to give the firearm to "B".

24 17. Based on my training and experience, I know this call to be about transacting in firearms
25 and firearms parts. For example, I know that a "nine millimeter 17 r...r-d" refers to a high-capacity
26 magazine.

27 18. On March 24, 2024, MOTON, using (559)944-2346, placed a call to an UM regarding
28

1 firearm and firearm parts during which MOTON was attempting to purchase and possibly barter for
2 utilizing controlled substances. MOTON asked the UM if he knew anyone with "thangs" (I know based
3 on my training and experience that "thangs" is slang for firearms). UM said he did and told MOTON to
4 "bring his money." MOTON said he would be bringing his money. UM estimated the price for a firearm
5 to be \$200-\$300 with some "thirties" (I know based on my training that "thirties" is slang for "M30's" or
6 counterfeit Percocet pills). MOTON indicated he was going to bring the narcotics and money to the deal
7 but both MOTON and the UM agreed they would not be taking their firearms.

8 19. On March 26, 2024, MOTON placed a call to an unidentified male ("UM") MOTON
9 addressed as "Kam" regarding the trafficking of firearms. An unknown voice in the background said "I
10 want that Beretta," as MOTON and the UM were discussing a "43" handgun and 9mm handgun. The
11 UM asked MOTON if he was on his way back, and MOTON confirmed he was. The UM and MOTON
12 then discussed something about a gun or gun store. The UM asked MOTON if he wanted him to put a
13 word out for him and MOTON said "yeah, its brand new." The UM asked MOTON if it was the one he
14 sent him and MOTON said "yeah the 43." The UM asked MOTON if it was the brown one, and
15 MOTON said that one was the Beretta². The UM said he has not seen the 43 yet, and asked MOTON to
16 send him some pictures because somebody just asked him for one. The UM wanted to know if MOTON
17 got any "sticks" when they were out there, and MOTON said he was not able to get any. The UM ended
18 the call by saying he would see MOTON when he gets back.

19 20. I know based on my training and experience that a "Beretta" refers to a Beretta firearm
20 and a "43" refers to a Glock 43 handgun. I know that "sticks" refers to extended magazines.

21 21. Court-ordered location data from MOTON's device showed his device in Phoenix, AZ
22 and Prescott, AZ on the date of March 26, 2024. Based on all of the calls on that date, including the calls
23 discussed above, I believe MOTON was attempting to obtain firearms in Arizona to bring back to the
24 Fresno, California area.

25 **March 27, 2024 Traffic Stop Where Moton Discards Firearm**

26
27
28 ² MOTON sent photos of a Beretta firearm via Facebook messenger multiple times during the
week of March 26, 2024.

22. On March 27, 2024, the following photograph (figure 1) depicts a Beretta handgun as MOTON had discussed above. MOTO, using Facebook account “Wendell Moton” sent this photograph through Facebook Messenger, to Facebook account “Stephy Drew”, which I know belongs to MOTON because it shares his name and uses his picture as the profile picture.

FIGURE 1



23. On March 27, 2024, investigators intercepted a call from a phone number believed to be used by a documented Garret Street gang member X. to (559)944-2346 used by Wendell MOTON. E.T. advised he was on his way back from Arizona and would be back home at around 3PM. MOTON told X that he had a “43” which is slang for a Glock 43. X mentioned he knew his friend was interested in purchasing a firearm and he would buy it.

24. On the same date, March 27, 2024, undercover officers observed MOTON in a tan-colored 2000 Chevrolet bearing Arizona license plate L4A27N at Clinton and Freeway 99 in the City of Fresno. Uniformed officers then observed the vehicle traveling westbound on Clinton Avenue as it made a northbound turn on Weber Avenue. The officers in a black and white marked Fresno Police Department vehicle with clearly visible emergency lights, activated the emergency equipment and attempted to conduct a vehicle stop but the vehicle failed to yield. When the vehicle eventually did yield on Crystal Avenue just north of Terrace Avenue, officers observed the front right passenger, who he

1 recognized as Wendell MOTON, exit the vehicle and began to flee on foot. MOTON was wearing all
2 black clothing with a small yellow backpack. Officers gave chase to MOTON who began to run north on
3 Crystal Avenue and west on the alley way between Terrace Avenue and Harvard Avenue. Officers saw
4 him enter a specific back yard at an address on W. Harvard Ave. and continue on foot east of that
5 location.

6 25. Officers who remained with the vehicle and detained the driver who was identified as Y
7 with an Arizona issued identification card. Y stated that the passenger told him not to pull over. Y
8 advised he was dropping the passenger off at an unknown location and was going to go back home. Y
9 said heknew the passenger as "Wendell" and did not state anything further.

10 26. Investigators continued to canvass the area for firearms. Investigators found a firearm in a
11 nearby residence at the same address on West Harvard Avenue noted above where officers saw
12 MOTON enter the back yard. Officers located a small yellow backpack containing a firearm. This was
13 the same backpack officers observed MOTON have on his person after he fled from the traffic stop. The
14 firearm in the backpack was a Beretta BU9 Nano bearing the serial #NU110366. The caliber of this
15 firearm was 9mm. Investigators provided thefirearms serial number to dispatch to query and dispatch
16 advised the investigators they found no returns or wants related to this firearm. The firearm was
17 equipped with a six-round magazine with six live cartridges in the magazine. In the yellow bag, officers
18 found 48 live 9mm cartridges and 28 live .45 caliber cartridges.

19 27. I consulted with ATF Special Agent B. Jacobsen, who has specialized training in the
20 origin and manufacture of firearms, and he confirmed that the Beretta BU9 Nano with serial
21 #NU110366 was not manufactured in California and thus moved in interstate commerce.

22 28. During the time of this traffic stop investigators intercepted calls over MOTON's
23 telephone number (559) 944-2346. After the traffic stop on March 27, 2024, MOTON advised that he
24 fled from the car after Fresno PD attempted to conduct a traffic stop and he needed to get picked up.
25 Investigators heard MOTON heavily panting during these phone calls. MOTON, using (559) 944-
26 2346,placed an outgoing call to an unidentified male (UM1703) utilizing phone number 559-536-1703.
27 UM1703 said "what you mean you don't know where the fuck you at nigga". Heavily panting, MOTON
28

1 stated, "It's preston and uhhh maripo uhh mariposa". UM1703 repeats the location provided back to
2 MOTON. MOTON and UM1703 quickly narrowed down the location. UM1703 commented about the
3 driver, "That's why I don't like ridin' with him, because he's not a gang member.... he don't know what
4 the fuck to do". Moton and UM1703 then spoke briefly about the subject's driving leading up to the
5 incident. MOTON advised "I threw the thang and everythang". UM1703 asks "where you throw it at?"
6 and MOTON answers, "It's in the backyard, in my bag". UM1703 tells Moton to "stay on the phone"
7 and continued to clarify MOTON's location. UM1703 then asked and made sure MOTON had
8 identification card and phones out of the thrown bag. MOTON stated "fuck that bag, there's just a gun,
9 that's it". MOTON mentioned actively attempting to hide from "the helicopter". MOTON and UM1703
10 finally clarified Moton's location at "preston and michigan". The call ended shortly after this.

11 29. I know that MOTON has discussed the purchase, sales and trafficking of firearms
12 multiple times. I believe MOTON was in possession of firearms and regularly conspired with other
13 prohibited gang members involved in firearms trafficking.

14 **Identification of Donnie HICKS**

15 30. Judge Idiart also issued an order authorizing interception of communications to and from
16 (559) 830-1594, utilized by Donnie HICKS³. This intercept was initiated after HICKS was intercepted in
17 multiple conversations with MOTON regarding firearms trafficking. HICKS was identified as Donnie
18 HICKS a documented gang member prohibited from owning or possessing firearms and ammunition.
19 Investigators observed HICKS multiple times using that number. Additionally, investigators who were
20 familiar with HICKS' voice from prior contacts with HICKS recognized his voice during calls with
21 MOTON .

22 **Hicks Discusses Firearms Trafficking**

23 31. On March 22, 2024, investigators intercepted a call from (559) 830-1594 used by HICKS
24 to (559) 944-2346 used by MOTON in which the two discussed firearm trafficking. After MOTON
25 stated "hello", HICKS informed MOTON "(unintelligible) said he got nine hundred" and thought
26

27 ³ HICKS was identified by a reliable source of his West Roy gang member status and has a
28 criminal history involving multiple convictions in firearm possession and robbery. I know based on my
training and experience that West Roy and Modoc are allied gangs.

1 MOTON wanted "a band"⁴. MOTON confirmed with HICKS that MOTON wanted "a band". MOTON
2 told HICKS "I'm tryin to get me a g-man"⁵, bro". HICKS asked MOTON what kind and MOTON replied
3 MOTON did not know what kind but was, "tryin to get this thang with a stick"⁶ on it." HICKS then
4 toldMOTON that HICKS did not think "the asian nigga" had a "g-man". HICKS stated, "who got a
5 glock", then told MOTON "I'm gonna look around for you right now".

6 32. On April 3, 2024, investigators intercepted a call over (559) 830-1594 used by HICKS
7 and a phone used by an unidentified male (UM) in which the two had a conversation regarding the UM
8 shopping for ammunition and gun parts for HICKS. HICKS asked for a price for a 50 round drum
9 magazine and the switch⁷. The UM replied that the switch goes for \$300 but he will sell it to him for
10 \$250 if HICKS really wants the switch. HICKS confirmed he really wanted the switch. UM indicated
11 he could grab the switch and put it on but if anyone else found out, don't call him. UM stated if he had
12 time, he could pick the switch up but he had to go to Wasco and also meet up with "KV". UM told
13 HICKS to tell him (KV) he's going to go get it and put it on (meaning the auto switch).

14 33. On April 8, 2024, investigators intercepted a call over (559) 830-1594 used by HICKS
15 and an individual with a known moniker referred to here as "Z." HICKS addressed the person by the
16 known moniker. HICKS stated, "he lost that little ass screw and bar that go in between the Glock Auto
17 switch part". HICKS stated, "he got a real one from his Asian nigga but didn't know how to put it
18 together". Z stated, "you have to look it up on Youtube". HICKS stated, "this was a real one it has the
19 semi and it's got the fully. The supplier charged \$250 for it and told HICKS to pay him whenever".
20 HICKS said, "he also got about 30 of the 9mm tracer ammunition". Z asked how much HICKS would
21 sell it for. HICKS said, "he gave his mom 10 bullets". HICKS said, "he's going to stop rocking the big
22 one". HICKS stated, "he didn't want to pull out looking too sexy". Z said, "another nigga had a Glock
23

24
25 ⁴ Band commonly refers to \$1000.

26 ⁵ G-man commonly refers to a Glock handgun.

27 ⁶ Stick commonly refers to an extended magazine for a firearm.

28 ⁷ Switch is referencing to a fully auto switch which renders the firearm a fully automatic by
attaching said switch.

23'. HICKS asked if it was a "ghost"⁸ and Z affirmed. HICKS stated, "the ghosts go for \$400". HICKS said, "he got the G-man full auto switch, a level 2 body armor vest with the hand things". HICKS said, "he was selling the vest for \$400". HICKS stated, "he thinks he left it at the house unless his mom put it up already". HICKS stated, "he also had a real G-man stick for the 9mm and the supplier gave him the Glock stick, a 40 Glock stock 10 (magazine), 100 tracer bullets, for \$145 dollars".

34. HICKS stated that the supplier would sell the bullets 50 for \$100 so HICKS stated that he bought some. Z stated he had a supplier who sold ammo for \$1 per bullet, Z said, it was a person "from the Dog Pound Gang", referring to that person by the moniker of a person I know to be in the Dog Pound gang. Then Z stated, it was too much because that supplier gets them for around \$20 in Vegas. HICKS asked what the Z wanted to do with the stick. Then Z said it depends on the price. HICKS said he was thinking \$50. HICKS said, "he wanted to get another clip like the one that it , came with", a factory ETS magazine. Z advised that's what he has right now. HICKS said, "he was going to pull out heavy with that motherfucker". HICKS said, "he's about to bring the UT 9 mini out," possibly referring to a UTAS USA UT9 MINI Semi-automatic firearm. HICKS said, "he has a plain little beige backpack for that motherfucker". Z began talking about someone who had a custom gun on YouTube. Z said, "\$50 for that motherfucker", conversation related to the magazine again. HICKS said, "no, a hundred". HICKS asked if Z still had the bottom piece to the 26, possibly referring to a Glock model 26. UM affirmed he just needs a slide. Z stated, he was going to get one off Ebay. HICKS said, "he's not had one problem with that motherfucker". Z said, "he had a 21 stick and a little ETS". HICKS said, "he needed to find that dumbass screw and Z was checking if he had one". HICKS said, he'll get it to the Z and he can figure it out. HICKS said he had a problem with someone that says it "slaps"⁹ when they hadn't pulled it out themselves. HICKS said, "he's going to dress up his G 27¹⁰", HICKS stated, "He already had his big thing and got a grip he just needs a compact beam for the G 27". HICKS said, "if he [Z] likes ¹¹ that one knocks, it doesn't have any hiccups and it's a factory". Z stated that he's going to make his

⁸ Privately Manufactured Firearm

⁹ Slaps is a common term used to say reliable.

¹⁰ Referring to a Glock model 27.

¹¹ Referencing the caliber 9mm

own YouTube videos. Z said he was trying different bullets, "like jackets and hollows¹²". HICKS said, "now that he [Z] had a full size factory he needs a little compact". HICKS said, "order a factory top and he'll have a factory G-man for under \$500". Z said he's been looking and not able to find one.

35. Based on my training and experience, this conversation with Z concerned the trafficking of firearms, discussing specific makes and models, equipment, and suppliers.

Identification of McCael MARSHALL

36. On April 14, 2024, investigators observed McCael MARSHALL¹³ meeting with Donnie HICKS at HICKS' address in Visalia, CA. Investigators looked at prior booking photographs of MARSHALL and prior contacts. MARSHALL is a felon prohibited to owning or possessing firearms and is currently on federal probation for a firearm conviction.

37. On April 21, 2024, investigators monitoring wire interceptions intercepted a call between (569)944-2346 used by MOTON and (559) 809-1008 regarding a firearms transaction. Investigators obtained subscribers records for (559) 809-1008 via court order and the listed subscriber was McCael MARSHALL.

April 21, 2024 Firearms Trafficking by MOTON, HICKS and MARSHALL

38. On April 21, 2024, investigators intercepted a call from (559) 830-1594 used by HICKS to (559) 944-2346 used by MOTON regarding HICKS trying to sell a firearm with a full auto switch. During this conversation MOTON and HICKS discussed prices for the firearms and confirmed that there was a fully automatic selector switch. HICKS asked MOTON how much HICKS wanted for just the switch or "the whole thing...I got the switch with it nigga...I was gonna sell it to you nigga the whole thing for \$1350". MOTON responded that he told a third-party male \$1500. DONNIE HICKS responded, "yeah I'll give him it." MOTON told HICKS. "I was going to give you the number ya'll can do what you do. Like we did it last time you remember." HICKS said, "yeah...that's what I'm saying. And you'll get the vest and unload the chain." MOTON was to send HICKS the third-party male's phone number. MOTON told HICKS the third-party male is in Fresno right now. HICKS is "at the house" Call

¹² Referencing ammunition type, Full Metal Jacket and Hollow Point

¹³ Marshall has multiple convictions for felony firearm offenses and is currently on federal supervised release for 18 USC § 922(g)(1), felon in possession of a firearm.

ends with MOTON saying he is going to send HICKS the third-party male's phone number.

39. On the same date investigators, utilizing an undercover social media account, contacted MOTON at "Wendell Moton" via Facebook Messenger¹⁴ and inquired about the gun for sale. Below is the conversation between the undercover officer and MOTON:

Undercover account: hey

USERNAME "Wendell Moton": What

Undercover account: we in fresno rn

USERNAME "Wendell Moton": I e there in 2 hours

Undercover account: u know anyone who has 1?

Undercover account: rn

USERNAME "Wendell Moton": (sent photo fig1)

Undercover account: hit my bro, he I buy it

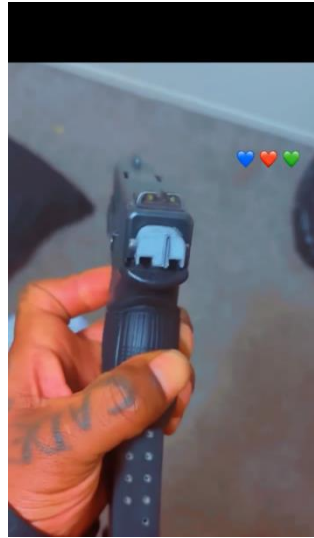
Undercover account: how much

Undercover account (UC number given to USERNAME "Wendell Moton")

40. During the above conversation MOTON sent a video of the firearm for sale affixed with a large capacity magazine and a fully automatic selector switch. In the photograph investigators were able to identify the tattoos on the hand of the subject in the video holding and manipulating the firearm as McCael MARSHALL. (See Figure 2).

¹⁴ Facebook Messenger is a free mobile messaging app used for instant messaging, sharing photos, videos, audio recordings and group chats.

FIGURE 2



41. Investigators recognized the hand in the video as belonging to McCael MARSHALL based on prior contacts with MARSHALL because of the distinctive tattoo on his hand. Additionally, the video showed a portion of the apartment where the gun was being held. Investigators recognized that apartment as MARSHALL's, having previously viewed images of that apartment obtained by a confidential reliable informant.¹⁵

42. Additionally, the background, the baseboards and shag carpet in the video of MARSHALL holding the firearm matches the listing photos for the apartment when 615 S. Demaree St. Apt #3 Visalia, CA was for rent.

43. During the conversation with undercover law enforcement, investigators intercepted a call from (559) 944-2346 used by MOTON to (559) 809-1008 used by MARSHALL. MOTON stated that someone wants the fully automatic Glock from HICKS. MARSHALL stated that he will call HICKS. MOTON then states that the undercover officer will call him back.

44. Undercover officers provided a phone number to MOTON to pass on in an effort to purchase this firearm. HICKS¹⁶, utilizing phone number (559) 830-1594 contacted the undercover officer and in a recorded phone call confirmed the price for the gun and offered to sell a bulletproof vest

¹⁵ The informant is a paid informant by the Fresno Police Department who has provided reliable, corroborated information on multiple occasions. The informant has been inside the address on S. Demaree St. Apt #3 Visalia, CA referred to herein and has taken photographs inside the apartment.

¹⁶ This number was confirmed by surveillance of HICKS usage and subscriber information.

1 all for \$1700. HICKS agreed to meet in Selma at 3:30 p.m. to sell both items. After the phone call
2 regarding the price for the firearm, the follow messages were exchanged:

3 (559) 830-1594: Yea my sister said she will take me around 3 if u ready or 330

4 Undercover account: coo, for sho, we locked in, I will call u when I head tht way g

5 (559) 830-1594: Yup ima send u pic rn ima go grab it

6 Undercover account: coo for sho

7 (559) 830-1594: (photos/videos sent, unable to open)

8 (559) 830-1594: u get the videos

9 Undercover account: its good, I do the both G (referring to the firearm and bulletproof vest)

10 (559) 830-1594: Fasho I'll hit u round 3 when my sister back

11 Undercover account: for sho I I hit you when I drop my kid off

12 (559) 830-1594: liked "for sho I I hit you when I drop my kid off"

13 Undercover account: just droppin my kid off rn, I can head to Selma rn

14 (559) 830-1594: 10 min away

15 45. During the conversations with undercover officers, investigators intercepted a call
16 between (559) 809-1008 used by MARSHALL to HICKS stating that MARSHALL was pulling up to
17 HICKS apartment. During these conversations surveillance was sent to the residence of HICKS at an
18 address on W. Campus Ave Apt 6 in Visalia, CA 93277. Surveillance teams observed HICKS leaving
19 his apartment. Investigators saw HICKS carrying a white trash bag with a red strap. (Figure 3) HICKS
20 then walked across the street to an address on S. Demaree St. Apt #3 Visalia, CA. HICKS entered a
21 white Kia bearing CA license plate 8GQA053 with McCael MARSHALL as a passenger and his
22 girlfriend driving.
23
24
25
26
27
28

FIGURE 3



46. Surveillance units followed the vehicle until California Highway Patrol (CHP) officers were able to conduct a vehicle stop at Sierra Ave, east of Highway 99 in Kingsburg, CA. During the vehicle stop officers contacted the driver, MARSHALL's girlfriend, who was unlicensed to drive. CHP Officers requested the occupants to exit the vehicle. HICKS exited the rear driver side, while being walked back to the CHP vehicle, HICKS spontaneously stated that the firearm in the car where he was sitting was his. CHP placed HICKS, MARSHALL and the female in handcuffs as investigators began to search the vehicle.

47. Investigators located a white trash bag with red straps on the right rear passenger floorboard containing black/blue body armor and a Glock 27 pistol with serial number GRA146 affixed with a full auto selector switch, commonly referred to as a "Glock auto switch". (Figure 4)

48. The body armor and firearm were located inside the same bag observed by surveillance.

FIGURE 4



1 49. Over the course of my career, I have encountered Glock-style auto switches and been
2 training in their recognition and function. Based on my training and experience, I know that when an
3 auto switch is affixed to a Glock or Glock style handgun it renders the firearm ability to shoot
4 automatically more than one shot, without manual reloading, by a single function of the trigger¹⁷.

5 50. Agents conferred with Bureau of Alcohol, Tobacco, Firearms and Explosives Special
6 Agent B. Jacobsen regarding the Glock 27 automatic weapon with serial number GRA146 seized. SA
7 Jacobsen has specialized training in the manufacture and origin of firearms and ammunition. SA
8 Jacobsen determined that the Glock 27 handgun with serial number GRA146 was manufactured in the
9 state of Georgia and most recently sold in Washington, therefore, traveled in and affected interstate
10 commerce.

11 51. The National Firearms Act (NFA) of 1934 regulates specific types of firearms,
12 specifically relevant to this case, machine guns. The NFA requires an occupational tax of \$200, and the
13 proper registration and transfer of any NFA type firearms. Neither MOTON, HICKS nor MARSHALL
14 possess a Federal Firearms License. MOTON, HICKS, and MARSHALL¹⁸ are felons prohibited from
15 owning and/or possessing firearms and ammunition¹⁹.

16 52. ATF performed a records checks on May 9, 2024, which showed that neither MOTON,
17 HICKS nor MARSHALL are not in the National Firearms Registration and Transfer Record (NFRTR).
18 Due to these facts, I know that MOTON, HICKS nor MARSHALL are not complying with the federal
19 regulations laid out in the NFA.

20 53. It is a felony in violation of 26 U.S.C. § 5861(b) to receive or possess a firearm
21 transferred in violation of National Firearms Act.

22 54. It is a felony in violation of California Penal Code § 25850(a) to carry a loaded firearm
23 on one's person without being the registered owner of that firearm. MOTON was previously arrested for
24 the predecessor statute of Cal. P.C. § 25850, Cal P.C. § 12025, on July 17, 2011. HICKS was
25

26 ¹⁷ This makes such a weapon a machinegun as defined in 26 USC § 5845.

27 ¹⁸ MOTON's most recent felony conviction was in 2022, MARSHALLS most recent felony
28 conviction was 2019 and HICKS most recent felony conviction was 2019.

1 previously arrested for a violation of the same statute on February 26, 2009. MARSHALL was also
 2 previously arrested for a violation of Cal. P.C. § 12025 on May 4, 2006.

3 55. MOTON, HICKS and MARSHALL have all previously been convicted of felony
 4 firearms offenses, and made no effort to transfer the firearm on April 21, 2024 legally through a licensed
 5 gun store. They also were not legally in possession of the firearm, which was a machinegun whose
 6 possession is a felony in violation of 26 U.S.C. § 5861(b) and was also a loaded handgun whose
 7 possession in public was a felony in violation of Cal. P.C. § 25850. They concealed the firearm in a
 8 plastic bag when transporting it and on previous occasions MOTON has discarded firearms in his
 9 possession to avoid being detected. Given their firearms history, their efforts to avoid legal means of
 10 transfer and conceal their transportation of the firearm, I believe they had reasonable cause to believe
 11 that possession of the firearm by their intended recipient was a felony.

12 56. I conducted a criminal history records check using the National Crime Information
 13 Center ²⁰and received both state and federal conviction records related to MOTON. I learned that
 14 MOTON has been convicted of the following felony convictions:

- 15 a) PC 245 (A)(1)-Assault with a deadly weapon in case number F0902643, on 8/4/2009 in
 16 the Superior Court of Fresno County. (458 days in jail)
- 17 b) 18 USC 922 (G)(1)-Felon in Possession of a Firearm in case number 1:2011cr00249,
 18 1/17/2012 in the Eastern District of California. (30 months prison)
- 19 c) 18 USC 922 (G)(1)-Felon in Possession of Ammunition in case number 1:21cr00050,
 20 2/11/2021 in the Eastern District of California. (35 months prison)
- 21 d) PC 29800(A)(1)-Felon/Addict in Possession of a Firearm in case number F21900859, on
 22 11/3/2022 in Superior Court of Fresno County (16 months prison)

23 57. I conducted a criminal history records check using the National Crime Information
 24 Center and received state conviction records related to HICKS. I learned that HICKS has been convicted
 25 of the following felony convictions:

26
 27
 28 ²⁰ The National Crime Information Center, or NCIC, is a computerized index of criminal records
 compiled from state, local, and federal arrest and conviction records received from agencies and courts.

- a) PC 487 (c)-Grand Theft from Person, in case number F08907602, on 2/18/2009 in Superior Court of Fresno County. (52 days jail)
- b) PC 12031(A)(2)(F)-Carry a Loaded Firearm/Not Registered Owner, in case number F09901242, on 7/30/2010 in Superior Court of Fresno County (16 months prison)
- c) PC12021(A)(1) and PC 148 (A)(1), in case number F11900864, on 3/6/2012 in Superior Court of Fresno County. (16 months prison)
- d) PC29800(A)(1)-Felon in Possession of a Firearm, in case number F1290160, on 6/13/2012 in Superior Court of Fresno County. (2 years prison)
- e) PC211-Robbery, in case number F14900598, on 3/28/2014 in Superior Court of Fresno County. (4 years prison)
- f) PC29800(A)(1)-Felon in Possession of a Firearm, in case number F19903067, on 8/16/2019 in Superior Court of Fresno County. (32 months prison)

58. I conducted a criminal history records check using the National Crime Information Center and received both state and federal conviction records related to MARSHALL. I learned that MARSHALL has been convicted of the following felony convictions:

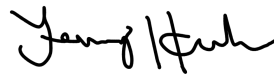
- a) PC487 (c)-Grand Theft from Person, in case number F08907602, on 1/23/2009 in Superior Court of Fresno County. (21 days jail)
- b) PC273.5(A)-Inflict Crpl Injury-Spouse, in case number F14902307, on 5/30/2014 in Superior Court of Fresno County. (365 days jail)
- c) PC273A(A)- Inflict Crpl Injury-Child, in case number F14902307, on 5/30/2014 in Superior Court of Fresno County. (2 years prison)
- d) PC273A(A)- Inflict Crpl Injury-child w/prior assault, in case number F15906509, on 1/12/2016 in Superior Court of Fresno County. (2 years prison)
- e) PC29800(A)(1)-Felon in Possession of Firearm, in case number F18902262, on 5/16/2018 in Superior Court of Fresno County. (16 months prison)
- f) 18 USC 922(g)(1)-Felon of Firearm/Ammunition, in case number 1:19CR00141, on 5/16/2019 in the Eastern District of California.

CONCLUSION

59. The above facts set forth probable cause to believe that Wendell MOTON, Donnie HICKS and McCael MARSHALL violated 18 USC 933, Firearms Trafficking, and 18 USC 922(g)(1), Dealing firearms without a license.


60. I request that an arrest warrant be issued for Wendell MOTON, Donnie HICKS and McCael MARSHALL for these violations.

Respectfully submitted,



Jeremy C. Hudson
Special Agent
Homeland Security Investigations

Affidavit is submitted by email/PDF and attested to me as true and accurate by telephone consistent with Fed. R. Crim. P. 4.1 before me on **May 10, 2024**.



Hon. Stanley A. Boone
U.S. Magistrate Judge

Approved as to form.
/s/ Robert L. Veneman-Hughes
Robert L. Veneman-Hughes
Assistant U.S. Attorney